

## **Assembly Bill No. 2628**

### **CHAPTER 585**

An act to repeal Section 8396 of, and to add and repeal Article 9.1 (commencing with Section 8405) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 15, 1996. Filed  
with Secretary of State September 17, 1996.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2628, Firestone. Sea cucumbers.

(1) Under existing law, until April 1, 1998, the owner or operator of a commercial fishing vessel and all divers taking sea cucumbers for commercial purposes are required to obtain a revocable sea cucumber permit from the Department of Fish and Game and have that permit in possession when taking sea cucumbers for commercial purposes. Existing law specifies the qualifications for those permits and sets the fees and terms of the permits.

This bill would repeal that existing law. The bill instead would provide, beginning April 1, 1997, and until April 1, 2002, for the issuance and annual renewal by the department of the number of sea cucumber permits issued for the permit year of April 1997 to March 1998, inclusive, upon payment of a fee of \$250. The bill would require an applicant for the permit for the April 1, 1997, to March 31, 1998, inclusive, permit year to have landed a minimum of 50 pounds of sea cucumbers during a specified period, and would require an applicant for the renewal of a permit for a subsequent permit year to have had a permit in the previous permit year. The bill would provide for appeal of a permit denial to the Fish and Game Commission. Beginning April 1, 1998, the bill would authorize the transfer of a permit to a licensed commercial fisherman who meets specified conditions, if the transferor has previously held the permit for any 4 permit years and has landed at least 100 pounds of sea cucumbers in each of those permit years, upon payment of a fee of \$200. The bill would authorize the commission to adopt regulations that it determines may reasonably be necessary to protect the sea cucumber resource and assure a sustainable sea cucumber fishery or to enhance enforcement activities.

Because existing law would make a violation of the bill and the regulations adopted pursuant thereto a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) The bill would authorize the commission to permanently revoke a permit for a conviction of unlawful taking of California

halibut while operating under a permit and to revoke a permit for a conviction of any other violation of the Fish and Game Code or regulations adopted pursuant thereto.

(3) Existing law generally requires money received by the department to be deposited in the Fish and Game Preservation Fund and continuously appropriates the money in the fund to the department and the commission to carry out the Fish and Game Code.

Because this bill would cause additional money to be received by the department from fees and would impose additional duties on the department and the commission, the bill would make an appropriation.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 8396 of the Fish and Game Code is repealed.

SEC. 2. Article 9.1 (commencing with Section 8405) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

#### Article 9.1. Sea Cucumbers

8405. (a) Sea cucumbers shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued to that person, which has not been suspended or revoked.

(b) When taking sea cucumbers by diving, every diver shall have a sea cucumber diving permit issued to that person, which has not been suspended or revoked. When taken by means other than diving, at least one person aboard the boat shall have a valid sea cucumber trawl permit issued to that person, which has not been suspended or revoked.

8405.1. (a) To qualify for a sea cucumber permit for the permit year of April 1, 1997, to March 31, 1998, inclusive, an applicant shall have landed a minimum of 50 pounds of sea cucumbers during any calendar year, or portion thereof, from January 1, 1988, to June 30, 1991, inclusive.

(b) All applications for sea cucumber permits shall be received by the department, or, if mailed, postmarked, by June 30, 1997.

(c) The department shall not issue a sea cucumber permit until the applicant's eligibility pursuant to this section has been verified by

the department through either landing receipts or other documentation used by the department.

(d) Applicants for a sea cucumber permit shall specify by gear type, either trawl or dive, the method in which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.

(e) The fee for a sea cucumber permit shall be two hundred fifty dollars (\$250).

(f) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.

(g) In order to renew a sea cucumber permit for any permit year commencing on or after April 1, 1998, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit year. Applications for renewal of a sea cucumber permit shall be received by the department or, if mailed, postmarked, by June 30 of the permit year.

(h) Any person denied a sea cucumber permit may appeal the denial to the commission in writing describing the basis for the appeal. The appeal shall be received by the commission on or before March 31 of the permit year for which the permit was denied.

8405.2. (a) A sea cucumber permit may be transferred by the permittee if the permittee has previously held a valid sea cucumber permit for any four permit years and landed at least 100 pounds of sea cucumbers in each of those permit years, as documented by landing receipts with the name of the permittee shown on the receipts.

(b) A sea cucumber permit may be transferred only to a person who has a valid commercial fishing license issued pursuant to Section 7852, that has not been suspended or revoked. A sea cucumber permit shall not be transferred to any person who has had a sea cucumber permit suspended or revoked while the suspension or revocation is in effect.

(c) An application for transfer shall be submitted to the department, with such reasonable proof as the department may require to establish the qualifications of the permitholder and the person the permit is to be transferred to, accompanied by payment to the department of a nonrefundable transfer fee of two hundred dollars (\$200). The transfer shall take effect on the date notice of approval of the application is given to the transferee by the department.

(d) A sea cucumber trawl permit may be transferred to any qualified person as provided in subdivisions (b) and (c) to take sea cucumbers by diving or by use of trawl nets. A sea cucumber dive permit may be transferred to any qualified person as provided in subdivisions (b) and (c) only to take sea cucumbers by diving. The transferee shall specify the gear type, either trawl or dive, that the

transferee intends to use to take sea cucumbers. The gear type of the sea cucumber permit, either trawl or dive, shall not be transferable.

8405.3. (a) The commission, upon recommendation of the department or upon its own motion and in consultation with the sea cucumber fishing industry, may adopt regulations, including provisions governing seasons, gear restrictions, hours of operation, and any other measures that it determines may reasonably be necessary to protect the sea cucumber resource and to assure a sustainable sea cucumber fishery or to enhance enforcement activities.

(b) The number of sea cucumber permits issued for the April 1, 1997, to March 31, 1998, inclusive, permit year shall constitute the maximum number of permits available for all subsequent permit years for the sea cucumber fishery. The department may establish by regulation a method, if necessary, to reissue any sea cucumber permit not renewed or transferred. The permit type of a sea cucumber permit, either trawl or dive, that is reissued shall not be transferable.

(c) The commission may permanently revoke the sea cucumber permit of any person convicted of the unlawful taking of any California halibut while operating pursuant to a sea cucumber permit. The commission may revoke the sea cucumber permit of any person convicted of any other violation of this code or regulation adopted pursuant thereto while operating pursuant to a sea cucumber permit. Any revocation of a permit pursuant to this subdivision shall be in addition to any action the department may take pursuant to Section 12000.

(d) Subsequent to the 1997–98 permit year, the department, using existing funds, may determine the actual costs to the department of enforcing this article. The commission, upon recommendation of the department, may adjust the fee for the issuance or transfer of a permit to an amount not to exceed three hundred fifty dollars (\$350), to reflect the actual cost of enforcing this article.

8405.4. This article shall become operative on April 1, 1997, except that Section 8405.2 shall become operative on April 1, 1998. This article shall become inoperative on April 1, 2002, and as of January 1, 2003, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2003, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

O

